

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel, W.A. DREW  
EDMONDSON, in his capacity as ATTORNEY  
GENERAL OF THE STATE OF OKLAHOMA,  
et al.,

Plaintiffs,

v.

TYSON FOODS, INC., et al.,

Defendants.

Case No. 4:05-CV-329-TCK-SAJ

**DEFENDANTS' RESPONSE IN OPPOSITION TO THIRD PARTY  
DEFENDANT WANDA L. DOTSON'S CORRECTED MOTION TO DISMISS  
THIRD PARTY PLAINTIFFS' COMPLAINT AND BRIEF IN SUPPORT**

COME NOW Defendants, Tyson Foods, Inc.; Tyson Poultry, Inc.; Tyson Chicken, Inc.; Cobb-Vantress, Inc.; Cal-Maine Foods, Inc.; Cal-Maine Farms, Inc.; George's, Inc.; George's Farms, Inc.; Peterson Farms, Inc.; Simmons Foods, Inc.; and Willow Brook Foods, Inc. (collectively, "Defendants"), and, by and through their respective attorneys, hereby submit the following *Response in Opposition to Third Party Defendant Wanda L. Dotson's Corrected Motion to Dismiss Third Party Plaintiffs' Complaint*. (Docket No. 804)

**I. ARGUMENT**

1. Third Party Defendant Wanda L. Dotson ("Ms. Dotson") filed her *Motion and Brief in Support to Dismiss Third Party Plaintiffs' Third Party Complaint or in the Alternative, to Sever and Stay Third Party Complaint* on May 8, 2006. (Docket No. 564) ("May 8, 2006 Motion to Dismiss")

2. On May 26, 2006, Defendants timely filed their *Response in Opposition to Third Party Defendant Wanda L. Dotson's Motion to Dismiss Third Party Plaintiffs' Third Party Complaint or in the Alternative, to Sever and Stay Third Party Complaint*. (Docket No. 749). See LCvR 7.2(e).

3. Ms. Dotson has not filed a reply in support of her May 8, 2006 Motion to Dismiss. Instead, on June 9, 2006, Ms. Dotson filed an *Unopposed Motion to File Corrected Motion to Dismiss*. (Docket No. 797).

4. As support for her request to file a “corrected” motion, Ms. Dotson stated that “Defendant Cargill was inadvertently but incorrectly identified as a Third-Party Plaintiff.” *Id.* at ¶ 3. Therefore, Ms. Dotson requested leave to file an amended motion to dismiss the Third Party Complaint “which redacts references to Defendant Cargill but makes no other substantive changes.” *Id.* at ¶ 4.

5. Ms. Dotson filed her *Corrected Motion to Dismiss Third-Party Plaintiffs’ Complaint and Brief in Support* on June 16, 2006. (Docket No. 804) (“Corrected Motion”)

6. Defendants have reviewed Ms. Dotson’s Corrected Motion and determined that Ms. Dotson has removed references to Defendant Cargill and made various minor grammatical corrections. However, Ms. Dotson’s Corrected Motion is identical to her May 8, 2006 Motion to Dismiss with respect to the legal arguments and authorities cited therein.

7. By Order dated May 31, 2006, Magistrate Judge Sam A. Joyner asked the parties to consider filing “adoptions” of previously filed briefs to reduce duplicate filings and help reduce some of the confusion that has been created in this case due to duplicate filings of the parties. *See* Docket No. 757, n. 1.

8. In compliance with Magistrate Joyner’s request, Defendants hereby respond to Ms. Dotson’s Corrected Motion by incorporating, by reference, their *Response in Opposition to Third Party Defendant Wanda L. Dotson’s Motion to Dismiss Third Party Plaintiffs’ Third Party Complaint or in the Alternative, to Sever and Stay Third Party Complaint* (Docket No. 749) and their *Response in Opposition to the Motion and Brief of the Berry Group of Third-Party*

*Defendants for Dismissal, and Alternatively for Severance and Stay of the Third-Party Complaint of Defendants/Third-Party Plaintiffs, Tyson Foods, Inc., Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's Inc., and Willow Brook Foods, Inc.* (Docket No. 775) the same as if fully set forth herein.

## II. CONCLUSION

For the reasons identified in Defendants' *Response in Opposition to Third Party Defendant Wanda L. Dotson's Motion to Dismiss Third Party Plaintiffs' Third Party Complaint or in the Alternative, to Sever and Stay Third Party Complaint* (Docket No. 749) and in Defendants' *Response in Opposition to the Motion and Brief of the Berry Group of Third-Party Defendants for Dismissal, and Alternatively for Severance and Stay of the Third-Party Complaint of Defendants/Third-Party Plaintiffs, Tyson Foods, Inc., Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's Inc., and Willow Brook Foods, Inc.* (Docket No. 775), this Court should deny Ms. Dotson's Corrected Motion as premature, legally deficient, and unsupported by considerations of the relevant equities and efficiencies.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of July, 2006, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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